

REGULAR CITY COUNCIL MEETING
FEBRUARY 22, 1988

PRESENT

Ruth Hansen	Mayor
Wesley J. Bloomfield	Council Member
Gayle Bunker	Council Member
David Church	Council Member
Rex T. Harris	Council Member

ABSENT

Don Dafoe	Council Member
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OTHERS PRESENT

Dorothy Jeffery	City Recorder
Richard Waddingham	City Attorney
Roger Young	Chief of Police
Bryce Ashby	Delta Fire Chief
Neil Forster	Public Works Director
Robert Rowley	Utah Department of Transportation
Craig Winter	7-11 Manager
Kylei Dutson	7-11 Employee
LeRay Jackson	Attorney at Law
Gordon Searle	Wagon Wheel Lounge
Arvella Searle	Wagon Wheel Lounge
Martin Ludwig	City Resident
Mr. & Mrs. Watts	City Residents

Mayor Hansen called the meeting to order at 7:00 p.m. Dorothy Jeffery, City Recorder, acted as secretary. Mayor Hansen stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

MINUTES

The proposed minutes of a regular City Council meeting held January 25, 1988, were presented for consideration and approval. The Council reviewed the minutes briefly and proposed corrections. Council Member David Church MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being

none, she called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a list of which had been given to them two days prior to the meeting. Following a brief discussion of the accounts payable, Council Member Gayle Bunker MOVED that the accounts payable be approved for payment as listed in the amount of \$40,190.88. The motion was SECONDED by Council Member Rex Harris. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

RON RASMUSSEN, UTAH DEPARTMENT OF TRANSPORTATION: OVERPASS CONSTRUCTION

In view of Ron Rasmussen's absence, Mayor Hansen asked Robert Rowley to address the Council regarding proposed overpass construction.

Robert Rowley, Utah Department of Transportation (UDOT) District 5 Representative, explained that UDOT has made periodic inspections of the overpass on the west end of Delta and has determined that the overpass is in need of repair.

Mr. Rowley said that in order to repair the overpass, access to the overpass will be restricted to one lane of traffic, which will be controlled by traffic signals and by placing barriers around the work area. Mr. Rowley said that construction should begin immediately and should last approximately 60 days.

Mr. Rowley also explained that work is being done to widen the road over the canal at the east end of Delta to the same width that the street is farther east.

Mr. Rowley said that UDOT hopes to begin construction of a cut-off road from the Oak City junction to the Delta Airport sometime this year.

COUNCIL MEMBER DAVID CHURCH: APPOINTMENT OF MEMBERS TO LICENSING APPEALS BOARD

Mayor Hansen asked Council Member David Church to discuss with the Council the appointment of new members to the Licensing Appeals Board.

Council Member David Church, Chairman of the Licensing Appeals Board, informed the Council that the Licensing Appeals Board Panel consists of six members and that two members need to be appointed to the Board. Mr. Church recommended that Rex Day and Nan Nielson be appointed as members of the Licensing Appeals Board Panel.

Council Member David Church MOVED that Rex Day and Nan Nielson be appointed as members to the Licensing Appeals Board. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

CRAIG WINTER, 7-11 MANAGER: REQUEST TO CHANGE DELTA CITY ORDINANCES TO ALLOW EMPLOYMENT OF MINORS TO SELL BEER WITHOUT ADULT SUPERVISION

Mayor Hansen asked Craig Winter, 7-11 Manager, to present a request to the Council.

Mr. Craig Winter explained that one of the 7-11 employees is under 21 years of age; and, in accordance with Delta City Ordinances, is not allowed to sell beer without the supervision of an adult. He explained that 7-11 has a very strict code regarding alcohol sales, and this employee has proven herself to be very dependable and has followed all rules and regulations. He also said that with the economy going down, it is very costly to have more than one employee on a shift. Mr. Winter then requested that the Delta City Ordinances be changed to allow minors to sell beer without adult supervision.

Attorney Richard Waddingham indicated that pursuant to law, cities have the power to license, tax, regulate or prohibit the sale of intoxicating liquor. Mr. Waddingham also indicated that consideration should be taken into account before changing this type of ordinance. In addition to the possible problems surrounding peer pressure, there are legal ramifications, including, but not limited to:

- (a) Whether the minor becomes criminally liable for his or her acts as agent of the employer, whether the employer is liable as the principal or whether both the employer and employee assume liability. In the event the issue of liability surrounds both the employer and employee, two jurisdictional forms would be required to address the liability issue - Justice Court and Juvenile Court. This in turn would require the intervention of the County Attorney's Office. In essence, there would be the possibility of a tremendous amount of judicial waste.
- (b) Another legal question is whether permitting an establishment, such as the 7-11, would result in discrimination against other establishments whose employees are required to provide adult supervision of minors selling intoxicating liquor. Specifically, there may be safety reasons why the City Council initially passed this ordinance, eg., adults accountability regarding liability under the Dram Shop Act, the recent passage by the City Council in compliance with Section

32A-17-1 et. seq. Utah Code Annotated (1953 Edition), which requires persons to attend an alcohol training and education seminar in order to learn how to recognize intoxicated persons or problem drinkers, etc.

Mr. Winter said that there are cities throughout the State that do not have an ordinance such as Delta City's, which allows employees under 21 years of age to sell alcoholic beverages. However, Mr. Waddingham reminded the Council that the regulation of intoxicating beverages is within the discretion of the City Council.

Council Member David Church MOVED to table discussion of this item to allow Chief Roger Young time to research procedures and ordinances of other Utah communities. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

LERAY JACKSON, ATTORNEY AT LAW: REVIEW OF ACTION TAKEN BY APPEALS BOARD REGARDING WAGON WHEEL'S 1988 BUSINESS LICENSE

Mayor Hansen asked Attorney LeRay Jackson to address the Council regarding the Wagon Wheel Lounge's 1988 Business License.

Attorney LeRay Jackson said that he was representing Gordon and Arvella Searle, Managers of the Wagon Wheel Lounge, and explained that in mid 1986 Mr. & Mrs. Searle were representing the Wagon Wheel Lounge as leasees that were working for Mr. Ray Oberhansley, Wagon Wheel Lounge Owner.

Attorney Jackson explained that Mr. Oberhansley had gaming devices in the Wagon Wheel Lounge, one of which was a gambling device. The lease between Mr. Oberhansley and Mr. & Mrs. Searle required that there be games in Wagon Wheel, but the Searle's indicated that they knew nothing about gambling. Mr. Oberhansley was in control of the Wagon Wheel and the Searle's were merely working there. One of the bar maids that was working at the Wagon Wheel Lounge made a pay off from the gambling device, which is against the law. The matter eventually went to court, but was not disposed of until 1987 when Mr. Searle and Mr. Oberhansley were convicted of a misdemeanor for allowing gambling.

The Searle's appeared before the Licensing Appeals Board in January of 1988 and after a hearing before the Licensing Appeals Board, Mr. Oberhansley and the Searles were denied a renewal of the business license.

Mr. Jackson said that there is a need for businesses such as the Wagon Wheel Lounge in Delta City as long as it is run properly. He recommended that the Searle's be allowed to reopen the lounge as soon as possible and be given another chance to run their

business. He explained that he had prepared a lease, which Mr. Oberhansley has signed, that is conditional upon them getting a business license and for the Searle's to have total control. Also in the new lease agreement, the Searle's are not required to have gaming devices in the Wagon Wheel Lounge.

Mr. Jackson said that the Wagon Wheel has been closed for approximately one month and requested that the Council shorten the six month period. He said that there was a violation due to ignorance on the part of Mr. & Mrs. Searle. Mrs. Searle has filed the application for a business license because Mr. Searle, at one time in his life, had a DUI charge, and under the City Ordinances and the State Law, the City has the power to deny a beer license to a person who has had an alcohol related offense.

Mr. Jackson said that he has inquired with a bonding company about a beer bond in Arvella Searle's name, which has been in Mr. Oberhansely's name in the past. He then urged the Council to reconsider and give the Searle's a second chance at operating the Wagon Wheel Lounge, and if there is a violation of any kind to immediately revoke their business license.

Mr. Searle said that they have had no problem whatsoever at the Wagon Wheel Lounge in the past 18 months.

There was discussion about people going in and out of the Wagon Wheel since it has been closed. Mr. Jackson explained that Mr. Searle has been cleaning and refinishing the lounge and several people have been helping him.

Attorney Waddingham asked Chief Young whether there had been any violations of the Wagon Wheel Lounge over the past two or three years. Chief Young said that there has been a beer bond violation and a licensing violation.

Attorney Waddingham reminded the Council that if someone has had their license either revoked or not renewed by the Licensing Appeals Board, then the only way that a person can get a license for the sale of alcoholic beverages is to appear before the City Council sitting as an appeals board. The City Council can then approve a license with whatever restrictions or limitations they see fit.

Some Council Members spoke in favor of letting Mr. Searle reopen the Wagon Wheel Lounge after being closed for one month.

Council Member David Church said that the decision of the Licensing Appeals Board was based on the evidence presented at the hearing and that there was not any new evidence presented before the Council. Mr. Church said that he questioned Mr. Searle's management ability because his employee made the pay off, but was not terminated. Council Member Church indicated he would not oppose a three month probation period rather than six months.

Following discussion, Council Member Rex Harris MOVED to reinstate the 1988 Business License for the Wagon Wheel as soon as possible with a six month probation period and if there is any violation to revoke the license immediately. Also, that Chief Young submit a letter to the Council in six months stating if there is a violation at any time. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed three to one, with Council Member David Church voting No.

ATTORNEY RICHARD WADDINGHAM: INTERLOCAL AGREEMENT REGARDING
MILLARD COUNTY NARCOTICS TASK FORCE

Mayor Hansen asked City Attorney Richard Waddingham to present a proposed Interlocal Agreement regarding Millard County Narcotics Task Force.

Attorney Waddingham presented a proposed Interlocal Agreement prepared by Nephi City's attorney entitled:

JUAB - MILLARD NARCOTICS TASK FORCE GOVERNING AGREEMENT

Chief Roger Young explained that Federal Grant money in the amount of \$80,000 has been made available to the Juab-Millard Narcotics Task Force to aid the enforcement and prosecution of narcotic violations. Therefore, the above mentioned proposed agreement has been presented to the following participating agencies: Juab County, Nephi City and Delta City for their consideration.

Attorney Waddingham said that it was his understanding that the four participating entities would be required to match 20% of the grant money received, which would amount to \$19,267. Chief Young said that there would be no out-of-pocket money required but that monies would be repaid from properties seized during narcotic violations.

Attorney Waddingham said that Millard County would be willing to cover costs for Millard County and Delta City for 1988 and possibly for each year Delta City was involved in the Task Force.

Council Members expressed concern regarding Delta City's budget and the ability to provide their pro-rated share to remain a part of the Task Force.

Discussion was held regarding the term of the agreement, which is one year, but shall be automatically renewable for additional one year terms, unless a participating agency shall give 30 days written notice prior to the anniversary date (January 1st) of its desire to withdraw from the agreement.

Attorney Waddingham concurred with the Council that the proposed Interlocal Agreement and proposed Resolution not be passed until a copy of the grant application could be reviewed by the Council.

Council Member David Church MOVED to table discussion of the proposed Interlocal Agreement and Resolution regarding the Narcotics Task Force to allow time for further research. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

ATTORNEY RICHARD WADDINGHAM: RESOLUTION ADOPTING INTERLOCAL AGREEMENT REGARDING MILLARD COUNTY NARCOTICS TASK FORCE

This item was tabled to allow for further research.

MAYOR RUTH HANSEN: WATER RIGHTS ACQUISITION POLICY

Mayor Hansen said that a meeting was held with IPA's representatives Joseph Novak and Earl Staker as to the maintenance of the water bank established by the August 9, 1982 Municipal Water Rights Acquisition Agreement with IPA. IPA representatives said that IPA would be willing to maintain this water bank only if there was certainty of need for it.

There has been discussion regarding a possible amendment to the Delta City Master Annexation Policy that would require persons seeking new water connections in territory annexed to Delta City to pay the cost of acquiring water rights development fee or dedicating water rights.

Mayor Hansen asked the City Council to consider amending the Master Annexation Policy Declaration to delete the option of dedicating water rights rather than paying the water rights acquisition fee. This would leave payment of the water rights acquisition fee as the sole option to any landowner in the annexed territory.

Council Member Gayle Bunker MOVED to submit the above proposal to the Planning and Zoning Commission for their recommendation. The motion was SECONDED by Council Member Wesley Bloomfield.

COUNCIL MEMBER REX HARRIS: MILLARD COUNTY FIRE DISTRICT MEETING

Mayor Hansen asked Council Member Rex Harris to report on the last Millard County Fire District Meeting held.

Council Member Rex Harris explained that the Millard County Fire District has received tax anticipation money, which is allocated to the individual fire departments within Millard County for

Operation and Maintenance. The amount derived at for each fire department is based on assessed evaluation and population of each department's fire boundary.

Mr. Harris said that Delta City receives approximately \$60,000 per year for Operation and Maintenance and said that in the last Millard County Fire District Meeting held, Delta City Fire Department was asked to consider giving 10% of their 1988 monies back to the District to be divided among the smaller fire departments.

Following discussion, Council Members agreed that the Delta City Fire Department should keep their full amount of Operation and Maintenance money for 1988.

OTHER BUSINESS

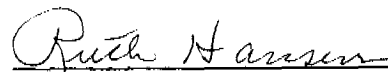
Discussion was held regarding the sale of the blue police vehicle. Nephi City Police Department recently made an offer to purchase the vehicle but they have not yet picked it up.

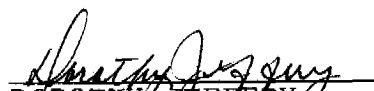
The Council agreed that if Nephi City does not pick up the car within two weeks, the car is available for \$2,000.

Mayor Hansen appointed Council Member Wesley Bloomfield as Council Member over the Planning and Zoning Commission.

City Recorder Dorothy Jeffery said that budget forms for the 1988-1989 budget have been given to the department heads for preparation of their departmental budgets.

Mayor Hansen asked if there were any further comments, questions or items to be discussed. There being none, Council Member Wesley Bloomfield MOVED to adjourn. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously. Mayor Hansen declared the meeting adjourned at 8:40 p.m.


RUTH HANSEN, Mayor


DOROTHY JEFFERY
Delta City Recorder
MINUTES APPROVED: RCCM 3-14-88